

# GIBSON DUNN

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September 15, 2023

VIA ECF

The Honorable Vincent L. Briccetti  
United States District Court for the Southern District of New York  
Federal Building and United States Courthouse  
300 Quarropas St.  
White Plains, NY 10601-4150

Re: *Jimenez v. Artsana USA, Inc.*, Case No. 21-cv-07933-VB

Dear Judge Briccetti:

I write as counsel for Defendant Artsana USA, Inc. in the above-captioned action.

On February 3, 2023, this Court issued its amended order granting preliminary approval of the class action settlement. ECF No. 52. On August 28, 2023, Plaintiffs filed their motion for final approval. ECF No. 56. Artsana's response to Plaintiffs motion is due October 18, 2023. We respectfully request a brief, one-week extension for Artsana's response to October 25, 2023.

There have been no prior requests for an extension. Good cause exists for this extension. After unprecedeted and overwhelming fraud in the claims process, Artsana is in the unexpected position of having to oppose the motion for final approval, or, in the alternative, requesting this Court to order a deficiency process to adequately address the fraud. For example, by the time of the final fairness hearing on October 12, 2023, the number of claims will more than double the total number of products sold. And the preliminary analysis shows that *at least* 85% of the submitted claims are fraudulent or otherwise invalid, and Artsana has evidence that the number is likely higher. Artsana's response brief will more fully elaborate on the extent of the fraud, and Artsana's proposed alternative process to salvage the settlement.

This extension need not affect any other deadlines in this action. Even with the extension, Plaintiffs would still have a week to reply and the hearing can remain on October 12. Alternatively, the Court can move the hearing date if Plaintiffs need additional time for their reply briefs.

We have conferred with Plaintiffs' counsel about this request. Plaintiffs' counsel did not consent, and gave the following reason: "These deadlines were set by the Court months ago and there is not sufficient time built into the schedule to allow the deadlines to be shifted without depriving us of adequate time to respond or the Court of adequate time to review

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both the final approval and fee papers. In addition, a week ago, we also offered to engage in a discussion about the motion for attorneys' fees and you did not respond."

This lack of cooperation is unfortunate, particularly because Artsana warned many weeks ago that it may need an extension, and has been actively trying to cooperate on all issues for months. And the same notices and orders contemplated that the deadlines may change. In particular, this Court's preliminary approval order makes clear that "the Final Hearing may, without further notice to the Settlement Class members . . . be continued or adjourned by the Court." ECF No. 52 ¶ 14. The notices sent to class members also stated that "[t]he date of the [fairness] hearing may change without further notice," and instructed them to visit the settlement website. ECF No. 60 Exs. B, C, F, and G. The settlement website ([www.artsanaboosterseatsettlement.com](http://www.artsanaboosterseatsettlement.com)) remains active and may be updated immediately upon any change in the schedule.

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

*s/Christopher Chorba*  
Christopher Chorba  
Partner

cc: All Counsel of Record (via ECF)